



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 1534-00
28 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 8 September 1989 at the age of 18. Your record reflects that you served for a year without incident until 23 October 1990 when you received nonjudicial punishment (NJP) for one day of unauthorized absence (UA). The punishment imposed was forfeitures totalling \$200 and restriction and extra duty for 15 days.

Your record further reflects that on 25 March 1993 you received NJP for wrongful use of marijuana and were awarded reduction in rate and extra duty for 45 days. On 31 March 1993 you were notified of pending administrative separation action by reason of misconduct due to drug abuse/use. At this time you waived your right to consult with legal counsel, to present your case to an administrative discharge board, or to submitted a statement in rebuttal to the separation. On 4 April 1993 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge. On 5 May 1993 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded because you were improperly enlisted in the Navy. The Board further considered your contention that because of your pre-service alcoholism, and diagnosed personality and attention deficit hyperactive disorders you should have received a medical discharge. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your drug related misconduct. Further, even if you had pre-service problems that should have precluded enlistment, there is no evidence that the Navy was aware of any of these problems when you enlisted. In addition, even if these problems might have justified discharge by reason of physical disability, administrative separation processing for misconduct takes precedence. Finally, these problems were deemed insufficiently mitigating to warrant recharacterization. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director